

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Paul Maravelias,

Plaintiff,

v.

John J. Coughlin
Gordon J. MacDonald,
Patricia G. Conway,
Town of Windham, ex. rel
Windham Police Department, &
Gerald S. Lewis

Defendants.

WINDHAM DEFENDANTS' MOTION TO DISMISS AMENDED COMPLAINT

NOW COME the Town of Windham, New Hampshire, the Windham Police Department, and Gerald S. Lewis (“the Windham Defendants”), by and through their attorneys, Donahue, Tucker & Ciandella, PLLC, and submit the following Motion to Dismiss the Amended Complaint filed by Paul Maravelias (“the Plaintiff”). In support thereof, the Windham Defendants state as follows:

I. PROCEDURAL BACKGROUND

1. The Plaintiff filed a Complaint in this action on February 11, 2019, in which he sought temporary and permanent injunctive relief and declaratory judgment relief related to a stalking order issued by the 10th Circuit Court – Derry District Division (Coughlin, J.) (“Circuit Court”), particularly as that stalking order related to certain terms related to Plaintiff’s use of certain social media posts that were imposed by the Circuit Court on August 7, 2018 (“extended

terms”). The decisions of the Circuit Court related to the extended terms were subsequently appealed by the Plaintiff to the New Hampshire Supreme, whereupon the New Hampshire Supreme Court rejected the arguments raised by the Plaintiff and affirmed the decision of the Circuit Court.

2. The Windham Defendants filed an Answer and Brief Statement of Defenses in response to the Plaintiff’s Complaint on April 16, 2019.

3. On April 17, 2019, the New Hampshire Attorney General Gordon MacDonald (“Attorney General”) filed a Motion to Dismiss asserting that this Court should dismiss the Plaintiff’s Complaint under the Rooker-Feldman Doctrine because the Plaintiff effectively sought to have this District exercise appellate jurisdiction over the decisions of the New Hampshire state courts.

4. On April 17, 2019, Judge Coughlin filed a Motion to Dismiss, in which he, inter alia, incorporated the arguments raised by the Attorney General.

5. On April 19, 2019, Rockingham County Attorney Patricia Conway (“County Attorney”) also filed a Motion to Dismiss, in which the County Attorney incorporated the arguments raised by the Attorney General.

6. On April 26, 2019, the Windham Defendants filed a Motion to Dismiss, incorporating the arguments raised by the Attorney General and further raising that the Plaintiff lacked standing to bring suit against the Windham Defendants.

7. On May 6, 2019, the Plaintiff filed Objections to the various Motions to Dismiss and also filed an Amended Complaint. In the Plaintiff’s May 6, 2019 Objection to the Motion to Dismiss from the Windham Defendants, he raised two procedural arguments: (1) that the Motion to Dismiss was not timely filed and (2) that the Motion to Dismiss has been made moot by the

filing of Plaintiff's First Amended Verified Complaint for Declaratory and Injunctive Relief ("Amended Complaint"). ECF Doc. # 21, 1-2.

8. The Windham Defendants hereby move this Honorable Court to dismiss the Amended Complaint and further takes this opportunity to address the procedural arguments raised by the Plaintiff.

II. FACTUAL BACKGROUND

9. The facts of this case, as asserted in the Plaintiff's Complaint, have been summarized by the Attorney General in the Attorney General's Motion to Dismiss, see ECF Doc. #10, ¶5-9. The Windham Defendants hereby adopt and incorporate by reference the factual recitation set forth in the Attorney General's Motion to Dismiss.

III. ARGUMENT

10. For the reasons set forth below and in the accompanying Memorandum of Law, which is hereby adopted and incorporated by reference, this Court should dismiss the Plaintiff's Amended Complaint Motion because: (a) the Court does not have jurisdiction under the Rooker-Feldman Doctrine; and (b) the Plaintiff lacks standing to assert the claims asserted against the Windham Defendants.

IV. CONCLUSION

V. For the foregoing reasons, and the reasons set forth in the accompanying Memorandum of Law, this Court should dismiss the Plaintiff's claims for injunctive and declaratory relief.

WHEREFORE, the Defendants respectfully request that this Honorable Court:

- A. Grant this Motion to Dismiss the Amended Complaint;
- B. Dismiss all claims against the Windham Defendants; and
- C. Grant such further relief as is just and equitable.

Dated: May 16, 2019

Respectfully Submitted,

TOWN OF WINDHAM, ex. rel.
WINDHAM POLICE DEPARTMENT, and
GERALD S. LEWIS

By and Through Their Attorneys

DONAHUE, TUCKER, & CIANDELLA, PLLC

/S/ Eric A. Maher

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CERTIFICATION

I herein certify that a copy of the foregoing has this date been transmitted via first class mail to Plaintiff Paul Maravelias and electronically through the ECF filing system to all counsel of record for the Defendants.

/S/ Eric A. Maher
Eric A. Maher, Esq.